

# DEBT RESULTING FROM ECB JUDGMENTS: --- AN OVERVIEW

June 2014

# Executive Summary

- The Environmental Control Board (ECB) sends some of their outstanding debt to the Department of Finance for collection. The current amount of this debt is \$1.48 billion and represents 1.5 million in outstanding violations, of which 24%, or \$350 million, is interest.
- The judgments sent to Finance includes both compliance and non-compliance debt.
- 83%, or \$1.2 billion, of the debt is more than 24 months old. The older the debt, the more difficult it is to collect.
- There are a number of reasons why this debt is difficult to collect including age of violation, incorrect name or no name at all on summons, lack of unique identifier such as SSN, EIN, BIN or Borough Block and Lot, etc...

# What is ECB?

- The Environmental Control Board (ECB) is a part of the Office of Administrative Trials and Hearings (OATH). It is an independent administrative court and is not part of the state court system. ECB judges hear cases on alleged violations of the City's laws that protect the City's quality of life. Violations that are filed at ECB can be issued by 13 different City enforcement agencies.

# Types of Violations Sent to ECB

- These violations come from 13 different agencies and include, but are not limited to:
  - Dirty sidewalks
  - Littering
  - Failure to remove snow and ice
  - Posting of posters or signs where they are not permitted
  - Work without a permit from the Department of Buildings (DOB)
  - Failure to comply with DOB building code
  - Failure to file a Certificate of Correction with DOB
  - Failure to comply with a DOB order

# Types of ECB Judgments

- There are two types of Violations Sent to ECB:
  - Compliance – the issuing agency requires a correction to be made to rectify the violation.
  - Non-compliance – the issuing agency does not require corrective action.

# Agencies That Send Violations to ECB

- ❖ Business Integrity Commission
- ❖ Department of Buildings
- ❖ Department of Consumer Affairs
- ❖ Department of Environmental Protection
- ❖ Fire Department
- ❖ Department of Health & Mental Hygiene
- ❖ Department of Information Technology and Telecommunications
- ❖ Landmarks Preservation Commission
- ❖ Department of Parks & Recreation
- ❖ Police Department
- ❖ Department of Sanitation
- ❖ Department of Small Business Services
- ❖ Department of Transportation

# ECB Debt by Agency



Agency Code	Agency Name	Compliance		Non-Compliance		TOTALS	
		Count	TOTAL	Count	TOTAL	Count	TOTAL
ASB	ASBESTOS CONTROL PROGRAM	1,610	\$ 14,746,455	0	\$0	1,610	\$14,746,455
BAR	AIR AND NOISE	2,788	\$ 4,818,759	0	\$0	2,788	\$4,818,759
DOB	DEPARTMENT OF BUILDINGS	122,897	\$ 769,644,779	0	\$0	122,897	\$769,644,779
FIR	FIRE DEPARTMENT	48,863	\$ 101,636,496	0	\$0	48,863	\$101,636,496
LPC	LANDMARKS PRESERVATION	351	\$ 792,249	0	\$0	351	\$792,249
055	NYPD INTELLIGENCE DIVISION	0	\$ -	5,160	\$14,031,409	5,160	\$14,031,409
056	POLICE DEPARTMENT	3	\$ 5,021	41,066	\$37,518,280	41,069	\$37,523,301
774	BUILDINGS DEPARTMENT	0	\$ -	1	\$134	1	\$134
775	POLICE DEPARTMENT	0	\$ -	7	\$7,698	7	\$7,698
802	HPD	0	\$ -	3	\$2,022	3	\$2,022
803	DEP HAZARDOUS MATERIALS	0	\$ -	1,143	\$6,872,858	1,143	\$6,872,858
804	DEP RIGHT TO KNOW	0	\$ -	129	\$1,440,916	129	\$1,440,916
810	DEPARTMENT OF BUILDINGS	0	\$ -	25	\$168,988	25	\$168,988
816	DOH/MENTAL HEALTH	0	\$ -	20,990	\$16,720,300	20,990	\$16,720,300
823	FIRE DEPARTMENT	0	\$ -	14	\$23,167	14	\$23,167
824	DEP IWC	0	\$ -	1,933	\$13,028,832	1,933	\$13,028,832
825	DEP BUREAU OF CUST. SERVICE	0	\$ -	55	\$32,765	55	\$32,765
826	DEP BUREAU OF ENV. COMPLIANC	0	\$ -	213	\$436,311	213	\$436,311
827	DOS ENFORCEMENT AGENTS	0	\$ -	688,819	\$223,295,851	688,819	\$223,295,851
828	SANITATION POLICE	0	\$ -	63,141	\$28,254,844	63,141	\$28,254,844
829	SANITATION OTHERS	0	\$ -	357,986	\$124,665,925	357,986	\$124,665,925
830	SANITATION PIU	0	\$ -	1,495	\$2,293,314	1,495	\$2,293,314
831	SANITATION RECYCLING	0	\$ -	81,201	\$32,060,018	81,201	\$32,060,018
832	SANITATION ENVIRON. POLICE	0	\$ -	505	\$1,084,617	505	\$1,084,617
841	DEPT OF TRANSPORTATION	0	\$ -	30,986	\$75,466,601	30,986	\$75,466,601
842	DCAS	0	\$ -	2	\$19,517	2	\$19,517
845	ENVIRONMENTAL PROTECTION (DEP)	0	\$ -	1	\$230	1	\$230
846	PARKS DEPARTMENT	0	\$ -	28,181	\$14,882,670	28,181	\$14,882,670
850	BIC	0	\$ -	960	\$1,895,384	960	\$1,895,384
858	DOITT	0	\$ -	3	\$1,280	3	\$1,280
866	DEPT OF CONSUMER AFFAIRS	0	\$ -	22	\$11,771	22	\$11,771
901	ANIMAL CARE AND CONTROL	0	\$ -	3	\$1,117	3	\$1,117
980	HUNTS POINT DEVELOPMENT	0	\$ -	86	\$119,186	86	\$119,186
985	SEAGATE POLICE	0	\$ -	176	\$76,910	176	\$76,910
989	DEPOLICE	0	\$ -	332	\$338,773	332	\$338,773
999	MISCELLANEOUS AGENCIES	0	\$ -	1,902	\$1,272,220	1,902	\$1,272,220
Total		176,512	\$ 891,643,759	1,326,540	\$596,023,908	1,503,052	\$1,487,667,667

# Compliance Vs Non Compliance Debt

Compliance				
Age Range	Total # of Summonses	Interest Amount	Amount Due	TOTAL
0-3M				
4-6M	1,337	\$47,226	\$6,495,064	\$6,542,290
7-9M	4,757	\$508,708	\$23,856,139	\$24,364,847
10-12M	5,801	\$1,035,251	\$25,091,313	\$26,126,564
13-24M	20,935	\$10,450,072	\$107,735,744	\$118,185,816
25-36M	24,045	\$22,797,472	\$123,645,154	\$146,442,626
37-48M	25,162	\$35,205,952	\$132,292,907	\$167,498,859
49-84M	63,616	\$82,536,547	\$207,626,956	\$290,163,503
>7Yrs	30,859	\$42,424,127	\$69,895,125	\$112,319,252
<b>Total</b>	<b>176,512</b>	<b>\$195,005,357</b>	<b>\$696,638,402</b>	<b>\$891,643,759</b>

Non-Compliance				
Age Range	Total # of Summonses	Interest Amount	Amount Due	TOTAL
0-3M	3	\$789	\$1,100	\$1,889
4-6M	14,321	\$37,187	\$3,950,302	\$3,987,489
7-9M	36,905	\$272,698	\$11,845,877	\$12,118,575
10-12M	37,393	\$565,726	\$13,040,070	\$13,605,796
13-24M	121,693	\$4,326,704	\$43,727,320	\$48,054,024
25-36M	154,031	\$9,529,387	\$51,231,752	\$60,761,139
37-48M	167,161	\$16,203,732	\$57,621,709	\$73,825,441
49-84M	513,529	\$69,623,889	\$160,898,097	\$230,521,986
>7Yrs	281,504	\$59,641,563	\$93,506,006	\$153,147,569
<b>Total</b>	<b>1,326,540</b>	<b>\$160,201,675</b>	<b>\$435,822,233</b>	<b>\$596,023,908</b>

Total				
Age Range	Total # of Summonses	Interest Amount	Amount Due	TOTAL
0-3M	3	\$789	\$1,100	\$1,889
4-6M	15,658	\$84,414	\$10,445,366	\$10,529,780
7-9M	41,662	\$781,405	\$35,702,016	\$36,483,421
10-12M	43,194	\$1,600,977	\$38,131,383	\$39,732,360
13-24M	142,628	\$14,776,776	\$151,463,064	\$166,239,840
25-36M	178,076	\$32,326,859	\$174,876,906	\$207,203,765
37-48M	192,323	\$51,409,684	\$189,914,616	\$241,324,300
49-84M	577,145	\$152,160,437	\$368,525,053	\$520,685,490
>7Yrs	312,363	\$102,065,691	\$163,401,131	\$265,466,822
<b>Total</b>	<b>1,503,052</b>	<b>\$355,207,032</b>	<b>\$1,132,460,635</b>	<b>\$1,487,667,667</b>



# Hearings for Violations Sent to ECB

- For both Compliance or Non- Compliance violations, ECB holds a hearing.
  - If the respondent attends the hearing and is found guilty:
    - The judgment amount is the base fine.
- Default means the respondent did not attend a hearing at ECB.
  - If respondent failed to appear for a hearing:
    - ECB imposes a default penalty.
    - Judgment amount is either the base fine or the default penalty.
- Docketed means the judgment has been docketed in the NYC Civil Court.
  - Interest begins to accrue on the judgment amount once a violation is docketed.

# Type of ECB Deb Collected By DOF

- ECB sends only docketed judgments to Finance. It also sends un-docketed judgments to the Law Department for collection.
- There are two types of docketed judgments:
  - Default – the respondent did not appear for ECB hearing (default penalty).
  - In violation – respondent had ECB hearing and was found guilty (base penalty).
- 90% of the debt referred to Finance is due to a default judgment.

## Current ECB Debt at DOF

- Outstanding Violations - 1.5 million
- Total Debt - \$1.48 billion
- Interest - \$350 million or 24%

# ECB Debt: Difficult to Collect

- Many of the judgments referred to Finance for collection are in default because the debtor did not appear at a hearing.
  - It is possible the debtor did not appear because they did not receive notice even though a violation was served.
- Violations that are filed at ECB for hearings are difficult to collect because:
  - Enforcement agencies write summonses to names and addresses.
  - Businesses often go out of business and owners reincorporate in a new name to avoid judgments.
  - Violations are written to “owner of” making legal enforcement impossible.
  - Violations are written to incorrect name or to an entity that has no legal connection to the property.
  - Often violation is handwritten and data entered manually.
  - Human error – name misspellings or typos
  - There is no unique identifier for the violations such as:
    - ❖ EIN or SSN for the respondent
    - ❖ Borough, Block, and Lot (BBL) for the property
    - ❖ BIN for the property

# ECB Debt: Difficult to Collect

- The older the debt, the more difficult it is to collect.
- Currently there is outstanding ECB debt that is older than 7 years .
- \$1.23 billion out of \$1.48 billion, or approximately 83%, is older than 24 months.

Aged Debt > 24 Months Total				
Age Range	Total # of Summonses	Interest Amount	Amount Due	TOTAL
25-36M	178,076	\$ 32,326,859	\$ 174,876,906	\$ 207,203,765
37-48M	192,323	\$ 51,409,684	\$ 189,914,616	\$ 241,324,300
49-84M	577,145	\$ 152,160,437	\$ 368,525,053	\$ 520,685,490
>7Yrs	312,363	\$ 102,065,691	\$ 163,401,131	\$ 265,466,822
Total	1,259,907	\$ 337,962,671	\$ 896,717,706	\$ 1,234,680,377

# ECB Debt Collection Efforts

- Starting in July 2012, DOF contracted with 3 Outside Collection Agencies (OCAs) to assist with ECB debt collection.
- With more advanced debt collection tools, OCAs are experts at collecting debt.

# ECB Collections by OCA

Fiscal Year	ECB Collected by OCA	All Other Collections	Total ECB \$ Collected
2011	\$164,848	\$19,515,218	\$19,680,066
2012	\$7,237,832	\$21,684,001	\$28,921,833
2013	\$20,082,386	\$6,660,463	\$26,742,849
2014*	\$23,762,115	\$182,710	\$23,944,825
Grand Total	\$51,247,181	\$48,042,392	\$99,289,573

OCA ECB Revenue Summary				Assignments
Fiscal Year	Revenue	Commission	Netback	
2011	\$164,848	\$12,858	\$151,989	\$87,000,000
2012	\$7,237,832	\$1,317,299	\$5,920,533	\$848,316,261
2013	\$20,082,386	\$2,670,948	\$17,411,439	\$468,401,971
2014*	\$23,762,115	\$2,823,437	\$20,938,678	\$97,995,669
Total	\$51,247,181	\$6,824,543	\$44,422,638	\$1,501,713,901

\*FY'14 data through May 2014

# ECB Debt Collection by Type

Fiscal Year	2011	2012	2013	2014	Total
Sanitation/Non-Compliance	\$8,879,917	\$12,667,941	\$9,704,915	\$8,702,129	\$39,954,902
Air & Noise	\$0	\$103,400	\$206,907	\$222,016	\$532,323
Asbestos	\$246,200	\$360,115	\$683,012	\$260,160	\$1,549,487
Buildings	\$8,870,473	\$12,670,105	\$12,303,837	\$10,615,744	\$44,460,159
Fire	\$1,666,452	\$3,084,278	\$3,814,565	\$4,118,176	\$12,683,471
Landmarks	\$17,024	\$35,994	\$29,613	\$26,600	\$109,231
<b>Grand Total</b>	<b>\$19,680,066</b>	<b>\$28,921,833</b>	<b>\$26,742,849</b>	<b>\$23,944,825</b>	<b>\$99,289,573</b>



# Improving ECB Debt Collection



- While Finance has contracted with OCAs to assist in the resolution of ECB debt, we need to address the factors that make it so difficult to collect. These include how violations are issued, and developing a more uniform approach across City agencies. In order to address these challenges, we make the following recommendations.

# Recommendations



- We recommend creating an inter-agency working group with all of the agencies that issue ECB violations to determine best practices and ensure that violations are enforceable and that fines are collectible. The group will consider the following issues:
  - Whether all violations could be written to an entity that has a unique identifier.
  - The possibility of allowing issuing agencies to be able to suspend or rescind permits and licenses for entities with unresolved judgments.
  - Adding enforcement tools for violations sent to ECB that are in judgment.
  - Giving Finance more latitude to offer settlements for judgments when appropriate (for example when the respondent goes out of business or can prove the violation was written in error.)
  - Examining the current write-off policy for debt and benchmarking best practices for debt write-off.

